

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FISHER & PAYKEL HEALTHCARE)	
LIMITED,)	
)	Misc. C.A. No. _____
Plaintiff,)	
)	Case Pending in the Central District of
v.)	California
)	Case No. 8:19-CV-00835-JVS(DFMx)
FLEXICARE INCORPORATED;)	
FLEXICARE MEDICAL LIMITED, a)	
United Kingdom company; and)	
FLEXICARE (GROUP) LIMITED, a)	
United Kingdom company,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL

Defendants Flexicare Incorporated, Flexicare Medical Limited, and Flexicare (Group) Limited (collectively, “Flexicare” or “Defendants”) hereby moves for an Order authorizing Flexicare to file its Motion to Transfer, or in the Alternative, to Compel Non-Party DSM to Comply with Defendants’ Subpoenas and accompanying exhibits under seal. In support of this motion, Flexicare states as follows:

1. Flexicare are defendants in *Fisher & Paykel Healthcare Limited v. Flexicare Incorporated et al.*, No. 8:19-CV-00835-JVS(DFMx) (the “Underlying Action”), a case currently pending in the United States District Court for the Central District of California.

2. Attached hereto as Exhibit A is the Stipulated Protective Order signed by United States Magistrate Judge Douglas F. McCormick on September 3, 2019 in the Underlying Action (D.I. 49).

3. The Stipulated Protective Order provides that filings containing material protected under the Order shall be filed under seal. Ex. A, ¶ 8.

4. Flexicare intends to file a motion seeking an order compelling non-party DSM Engineering Materials, Inc. (“DSM”) to comply with two subpoenas, which were served on July 15, 2020. In support of that motion, it will be necessary to provide the Court with Flexicare and DSM’s confidential information.

5. Accordingly, Flexicare respectfully requests that the Court enter the attached proposed Order permitting Flexicare to file its Motion and accompanying exhibits under seal.

6. Flexicare will submit a public, redacted version of these documents within seven days of filing the original documents pursuant to this Court’s CM/ECF Procedures.

OF COUNSEL:

Peter Sauer
King & Spalding LLP
1515 Wynkoop Street
Suite 800
Denver, CO 80202
(720) 535-2316
psauer@kslaw.com

/s/ Travis S. Hunter

Travis S. Hunter (#5350)
Renée Mosley Delcollo (#6442)
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
(302) 651-7700
hunter@rlf.com
delcollo@rlf.com

Attorneys for Defendants

Dated: October 6, 2020

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2020, true and correct copies of the foregoing document were caused to be served on the following counsel as indicated:

BY ELECTRONIC MAIL

Stephen C. Jensen
Steve.jensen@knobbe.com
Sheila N. Swaroop
Sheila.Swaroop@knobbe.com
David G. Jankowski
David.jankowski@knobbe.com
Marko R. Zoretic
Marko.Zoretic@knobbe.com
Benjamin J. Everton
Ben.everton@knobbe.com
Douglas B. Wentzel
Douglas.Wentzel@knobbe.com
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
14th Floor
Irvine, CA 92614

BY ELECTRONIC MAIL

Erick J. Palmer, Ph.D.
EJPalmer@mayerbrown.com
Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606

/s/ Travis S. Hunter

Travis S. Hunter (#5350)
hunter@rlf.com